

AMENDED IN ASSEMBLY AUGUST 17, 2009

AMENDED IN ASSEMBLY JULY 14, 2009

AMENDED IN ASSEMBLY JUNE 30, 2009

AMENDED IN SENATE APRIL 13, 2009

**SENATE BILL**

**No. 296**

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**Introduced by Senator Lowenthal**

February 25, 2009

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An act to amend Section 1368.015 of, and to add Sections 1367.29 and 1368.016 to, the Health and Safety Code, and to add Sections 10123.198 and 10123.199 to the Insurance Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

SB 296, as amended, Lowenthal. Mental health services.

Existing law provides for the licensing and regulation of health care service plans by the Department of Managed Health Care. Existing law provides for the regulation of health insurers by the Department of Insurance. A willful violation of provisions governing health care service plans is a crime. Existing law imposes certain requirements on health care service plans, specialized health care service plans, and health insurers that provide coverage for professional mental health services. Existing law also requires every health care service plan, other than a plan that primarily serves ~~Med-Cal~~ *Medi-Cal* or Healthy Family Program enrollees, to maintain an Internet Web site.

This bill would, on and after July 1, 2011, require every health care service plan, including a specialized health care service plan, and health insurer that provides professional mental health services to issue an identification card, as specified, to each enrollee in order to assist the

enrollee with accessing health benefits coverage information and other information, *with specified exceptions*. The bill would require the identification card to be issued upon enrollment or commencement of coverage or upon any change in the enrollee's coverage that impacts the data content or format of the card. The bill would also require those plans and insurers to provide, on or before January 1, 2012, specified information on their Internet Web sites, to be updated as specified *and made available in hard copy upon request*, and would require those insurers to establish Internet Web sites for that purpose. *The bill would exempt from those requirements specified plans or insurers that contract with another entity to provide coverage for mental health services, provided that the plan or insurer provides a link on its Internet Web site to the entity's Internet Web site and that entity complies with the above-described information requirements.* The bill would also require the departments to include on their Internet Web sites a link to the Internet Web site of each of those plans or insurers. The bill would also make changes to related provisions.

By imposing new requirements on certain health care service plans, the willful violation of which would be a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 1367.29 is added to the Health and Safety  
2 Code, to read:  
3 1367.29. (a) On and after July 1, 2011, in accordance with the  
4 requirements of subdivision (b), every health care service plan that  
5 provides coverage for professional mental health services, including  
6 a specialized health care service plan that provides coverage for  
7 professional mental health services, shall issue an identification  
8 card to each enrollee in order to assist the enrollee with accessing  
9 health benefits coverage information, including, but not limited  
10 to, in-network provider access information, and claims processing

1 purposes. The identification card, at a minimum, shall include all  
2 of the following information:

3 (1) The name of the health care service plan issuing the  
4 identification card.

5 (2) The enrollee's identification number.

6 (3) A telephone number that enrollees or providers may call for  
7 assistance with health benefits coverage information, in-network  
8 provider access information, and claims processing information,  
9 and when assessment services are provided by the health care  
10 service plan, access to assessment services for the purpose of  
11 referral to an appropriate level of care or an appropriate health  
12 care provider.

13 (4) The health care service plan's Internet Web site address.

14 (b) The identification card required by this section shall be  
15 issued by a health care service plan or a specialized health care  
16 service plan to an enrollee upon enrollment or upon any change  
17 in the enrollee's coverage that impacts the data content or format  
18 of the card.

19 (c) Nothing in this section requires a health care service plan to  
20 issue a separate identification card for professional mental health  
21 services coverage if the plan issues a card for health care coverage  
22 in general and the card provides the information required by this  
23 section.

24 (d) If a health care service plan or a specialized health care  
25 service plan, as described in subdivision (a), delegates  
26 responsibility for issuing the identification card to a contractor or  
27 an agent, the contractor or agent shall be required to comply with  
28 this section.

29 (e) Nothing in this section shall be construed to prohibit a health  
30 care service plan or a specialized health care service plan from  
31 meeting the standards of the Workgroup for Electronic Data  
32 Interchange (WEDI) or other national uniform standards with  
33 respect to identification cards, and a health care service plan shall  
34 be deemed compliant with this section if the plan conforms with  
35 these standards, as long as the minimum requirements described  
36 in subdivision (a) have been met.

37 (f) For the purposes of this section, "identification card" includes  
38 other technology that performs substantially the same function as  
39 an identification card.

(g) (1) This section shall not apply to Medicare supplement insurance, Employee Assistance Programs, short-term limited duration health insurance, Champus-supplement insurance, or TRI-CARE supplement insurance, or to hospital indemnity, accident-only, and specified disease insurance. This section shall also not apply to specialized health care service plans, except behavioral health-only plans.

(2) Notwithstanding paragraph (1), this section shall not apply to a behavioral health-only plan that provides coverage for professional mental health services pursuant to a contract with a health care service plan or insurer if that plan or insurer issues an identification card to its subscribers or insureds pursuant to this section or Section 10123.198 of the Insurance Code.

SEC. 2. Section 1368.015 of the Health and Safety Code is amended to read:

1368.015. (a) Effective July 1, 2003, every plan with an Internet Web site shall provide an online form through its Internet Web site that subscribers or enrollees can use to file with the plan a grievance, as described in Section 1368, online.

(b) The Internet Web site shall have an easily accessible online grievance submission procedure that shall be accessible through a hyperlink on the Internet Web site's home page or member services portal clearly identified as "GRIEVANCE FORM." All information submitted through this process shall be processed through a secure server.

(c) The online grievance submission process shall be approved by the Department of Managed Health Care and shall meet the following requirements:

(1) It shall utilize an online grievance form in HTML format that allows the user to enter required information directly into the form.

(2) It shall allow the subscriber or enrollee to preview the grievance that will be submitted, including the opportunity to edit the form prior to submittal.

(3) It shall include a current hyperlink to the California Department of Managed Health Care Internet Web site, and shall include a statement in a legible font that is clearly distinguishable from other content on the page and is in a legible size and type, containing the following language:

“The California Department of Managed Health Care is responsible for regulating health care service plans. If you have a grievance against your health plan, you should first telephone your health plan at (insert health plan’s telephone number) and use your health plan’s grievance process before contacting the department. Utilizing this grievance procedure does not prohibit any potential legal rights or remedies that may be available to you. If you need help with a grievance involving an emergency, a grievance that has not been satisfactorily resolved by your health plan, or a grievance that has remained unresolved for more than 30 days, you may call the department for assistance. You may also be eligible for an Independent Medical Review (IMR). If you are eligible for IMR, the IMR process will provide an impartial review of medical decisions made by a health plan related to the medical necessity of a proposed service or treatment, coverage decisions for treatments that are experimental or investigational in nature and payment disputes for emergency or urgent medical services. The department also has a toll-free telephone number (1-888-HMO-2219) and a TDD line (1-877-688-9891) for the hearing and speech impaired. The department’s Internet Web site <http://www.hmohelp.ca.gov> has complaint forms, IMR application forms and instructions online.”

The plan shall update the URL, hyperlink, and telephone numbers in this statement as necessary.

(d) A plan that utilizes a hardware system that does not have the minimum system requirements to support the software necessary to meet the requirements of this section is exempt from these requirements until January 1, 2006.

(e) For purposes of this section, the following terms shall have the following meanings:

(1) “Homepage” means the first page or welcome page of an Internet Web site that serves as a starting point for navigation of the Internet Web site.

(2) “HTML” means Hypertext Markup Language, the authoring language used to create documents on the World Wide Web, which defines the structure and layout of a Web document.

(3) “Hyperlink” means a special HTML code that allows text or graphics to serve as a link that, when clicked on, takes a user

1 to another place in the same document, to another document, or  
2 to another Internet Web site or Web page.

3 (4) “Member services portal” means the first page or welcome  
4 page of an Internet Web site that can be reached directly by the  
5 Internet Web site’s homepage and that serves as a starting point  
6 for a navigation of member services available on the Internet Web  
7 site.

8 (5) “Secure server” means an Internet connection to an Internet  
9 Web site that encrypts and decrypts transmissions, protecting them  
10 against third-party tampering and allowing for the secure transfer  
11 of data.

12 (6) “URL” or “Uniform Resource Locator” means the address  
13 of an Internet Web site or the location of a resource on the World  
14 Wide Web that allows a browser to locate and retrieve the Internet  
15 Web site or the resource.

16 (7) “Internet Web site” means a site or location on the World  
17 Wide Web.

18 (f) (1) Every health care service plan, except a plan that  
19 primarily serves Medi-Cal or Healthy Families Program enrollees,  
20 shall maintain *an* Internet Web site. For a health care service  
21 plan that provides coverage for professional mental health services,  
22 the Internet Web site shall include, but not be limited to, providing  
23 information to subscribers, enrollees, and providers that will assist  
24 subscribers and enrollees in accessing mental health services as  
25 well as the information described in Section 1368.016.

26 (2) *The provision in paragraph (1) that requires compliance*  
27 *with Section 1368.016 shall not apply to a health care service plan*  
28 *that contracts with a specialized health care service plan, insurer,*  
29 *or other entity to cover professional mental health services for its*  
30 *enrollees, provided that the health care service plan provides a*  
31 *link on its Internet Web site to an Internet Web site operated by*  
32 *the specialized health care service plan, insurer, or other entity*  
33 *with which it contracts, and that plan, insurer, or other entity*  
34 *complies with Section 1368.016.*

35 SEC. 3. Section 1368.016 is added to the Health and Safety  
36 Code, to read:

37 1368.016. (a) On or before January 1, 2012, every health care  
38 service plan that provides coverage for professional mental health  
39 services, including a specialized health care service plan that  
40 provides coverage for professional mental health services, shall,

1 pursuant to subdivision (f) of Section 1368.015, include on its  
2 Internet Web site, or provide a link to, the following information:

3 (1) A telephone number that the enrollee or provider can call,  
4 during normal business hours, for assistance obtaining mental  
5 health benefits coverage information, including the extent to which  
6 benefits have been exhausted, in-network provider access  
7 information, and claims processing information.

8 (2) A link to prescription drug formularies or instructions on  
9 how to obtain the formulary, as described in Section 1367.20.

10 (3) A detailed summary that describes the process by which the  
11 plan reviews and authorizes or approves, modifies, or denies  
12 requests for health care services as described in Sections 1363.5  
13 and 1367.01.

14 (4) Lists of providers or instructions on how to obtain the  
15 provider list, as required by Section 1367.26.

16 (5) A detailed summary of the enrollee grievance process as  
17 described in Sections 1368 and 1368.015.

18 (6) A detailed description of how an enrollee may request  
19 continuity of care pursuant to subdivisions (a) and (b) of Section  
20 1373.95.

21 (7) Information concerning the right, and applicable procedure,  
22 of an enrollee to request an independent medical review pursuant  
23 to Section 1374.30.

24 (b) Any modified material described in subdivision (a) shall be  
25 updated at least quarterly.

26 (c) The information described in subdivision (a) may be made  
27 available through a secured Internet Web site that is only accessible  
28 to enrollees.

29 (d) The material described in subdivision (a) shall also be made  
30 available to enrollees in hard copy upon request.

31 (e) Nothing in this article shall preclude a health care service  
32 plan from including additional information on its Internet Web  
33 site for applicants, enrollees or subscribers, or providers, including,  
34 but not limited to, the cost of procedures or services by health care  
35 providers in a plan's network.

36 (f) The department shall include on the department's Internet  
37 Web site a link to the Internet Web site of each health care service  
38 plan and specialized health care service plan described in  
39 subdivision (a).

(g) This section shall not apply to Medicare supplement insurance, *Employee Assistance Programs*, short-term limited duration health insurance, Champus-supplement insurance, or TRI-CARE supplement insurance, or to hospital indemnity, accident-only, and specified disease insurance. This section shall also not apply to specialized health care service plans, except behavioral health-only plans.

(h) *This section shall not apply to a health care service plan that contracts with a specialized health care service plan, insurer, or other entity to cover professional mental health services for its enrollees, provided that the health care service plan provides a link on its Internet Web site to an Internet Web site operated by the specialized health care service plan, insurer, or other entity with which it contracts, and that plan, insurer, or other entity complies with this section or Section 10123.199 of the Insurance Code.*

SEC. 4. Section 10123.198 is added to the Insurance Code, to read:

10123.198. (a) On and after July 1, 2011, in accordance with the requirements of subdivision (b), every health insurer that provides coverage for professional mental health services shall issue an identification card to each insured in order to assist the insured with accessing health benefits coverage information, including, but not limited to, in-network provider access information, and claims processing purposes. The identification card, at a minimum, shall include all of the following information:

(1) The name of the health insurer issuing the identification card.

(2) The insured's identification number.

(3) A telephone number that insureds or providers may call for assistance with health benefits coverage information, in-network provider access information, and claims processing information, and when assessment services are provided by the health insurer, access to assessment services for the purpose of referral to an appropriate level of care or an appropriate health care provider.

(4) The health insurer's Internet Web site address.

(b) The identification card required by this section shall be issued by a health insurer to an insured upon commencement of coverage or upon any change in the insured's coverage that impacts the data content or format of the card.



(c) Nothing in this section requires a health insurer to issue a separate identification card for professional mental health coverage if the insurer issues a card for health care coverage in general and the card provides the information required by this section.

(d) If a health insurer, as described in subdivision (a), delegates responsibility for issuing the card to a contractor or agent, the contractor or agent shall be required to comply with this section.

(e) Nothing in this section shall be construed to prohibit a health insurer from meeting the standards of the Workgroup for Electronic Data Interchange (WEDI) or other national uniform standards with respect to identification cards, and a health insurer shall be deemed compliant with this section if the insurer conforms with these standards, as long as the minimum requirements described in subdivision (a) have been met.

(f) For the purposes of this section, “identification card” includes other technology that performs substantially the same function as an identification card.

(g) (1) This section shall not apply to Medicare supplement insurance, Employee Assistance Programs, short-term limited duration health insurance, Champus-supplement insurance, or TRI-CARE supplement insurance, or to hospital indemnity, accident-only, and specified disease insurance. This section shall also not apply to specialized health insurance policies, except behavioral health-only policies.

(2) *Notwithstanding paragraph (1), this section shall not apply to a behavioral health-only policy that provides coverage for professional mental health services pursuant to a contract with a health care service plan or insurer if that plan or insurer issues an identification card to its subscribers or insureds pursuant to this section or Section 1367.29 of the Health and Safety Code.*

SEC. 5. Section 10123.199 is added to the Insurance Code, to read:

10123.199. (a) On or before January 1, 2012, every health insurer that provides coverage for professional mental health services shall establish an Internet Web site. Each Internet Web site shall include, or provide a link to, the following information:

(1) A telephone number that the insured or provider can call, during normal business hours, for assistance obtaining mental health benefits coverage information, including the extent to which

1 benefits have been exhausted, in-network provider access  
2 information, and claims processing information.

3 (2) A link to prescription drug formularies or instructions on  
4 how to obtain formulary information.

5 (3) A detailed summary description of the process by which the  
6 insurer reviews and approves, modifies, or denies requests for  
7 health care services as described in Section 10123.135.

8 (4) Lists of providers or instructions on how to obtain a provider  
9 list as required by Section 10133.1.

10 (5) A detailed summary of the health insurer's grievance process.

11 (6) A detailed description of how the insured may request  
12 continuity of care as described in Section 10133.55.

13 (7) Information concerning the right, and applicable procedure,  
14 of the insured to request an independent medical review pursuant  
15 to subdivision (i) of Section 10169.

16 (b) Except as otherwise specified, the material described in  
17 subdivision (a) shall be updated at least quarterly.

18 (c) The information described in subdivision (a) may be made  
19 available through a secured Internet Web site that is only accessible  
20 to the insured.

21 (d) The material described in subdivision (a) shall also be made  
22 available to insureds in hard copy upon request.

23 (e) Nothing in this article shall preclude an insurer from  
24 including additional information on its Internet Web site for  
25 applicants or insureds, including, but not limited to, the cost of  
26 procedures or services by health care providers in an insurer's  
27 network.

28 (f) The department shall include on the department's Internet  
29 Web site, a link to the Internet Web site of each health insurer  
30 described in subdivision (a).

31 (g) This section shall not apply to Medicare supplement  
32 *insurance*, *Employee Assistance Programs*, short-term limited  
33 duration health insurance, Champus-supplement insurance, *or*  
34 TRI-CARE supplement *insurance*, or to hospital indemnity,  
35 accident-only, and specified disease insurance. This section shall  
36 also not apply to specialized health insurance policies, except  
37 behavioral health-only policies.

38 (h) *This section shall not apply to a health insurer that contracts*  
39 *with a specialized health care service plan, insurer, or other entity*  
40 *to cover professional mental health services for its insureds,*

1 *provided that the health insurer provides a link on its Internet Web*  
2 *site to an Internet Web site operated by the specialized health care*  
3 *service plan, insurer, or other entity with which it contracts, and*  
4 *that plan, insurer, or other entity complies with this section or*  
5 *Section 1368.016 of the Health and Safety Code.*

6 SEC. 6. No reimbursement is required by this act pursuant to  
7 Section 6 of Article XIII B of the California Constitution because  
8 the only costs that may be incurred by a local agency or school  
9 district will be incurred because this act creates a new crime or  
10 infraction, eliminates a crime or infraction, or changes the penalty  
11 for a crime or infraction, within the meaning of Section 17556 of  
12 the Government Code, or changes the definition of a crime within  
13 the meaning of Section 6 of Article XIII B of the California  
14 Constitution.